

§ 441.550

Choice services and supports, and must meet the following requirements:

(i) Ensure compliance with all applicable requirements of the Internal Revenue Service, and State employment and taxation authorities, including but not limited to, retaining required forms and payment of FICA, FUTA and State unemployment taxes.

(ii) Permit individuals using the cash option to choose to use the financial management entity for some or all of the functions described in paragraph (b)(1)(ii) of this section.

(iii) Make available a financial management entity to an individual who has demonstrated, after additional counseling, information, training, or assistance that the individual cannot effectively manage the cash option described in this section.

(iv) The State may require an individual to use a financial management entity, but must provide the individual with the conditions under which this option would be enforced.

(3) *Vouchers.* States have the option to issue vouchers to individuals who self-direct their Community First Choice services and supports as long as the requirements in paragraphs (b)(2)(i) through (iv) of this paragraph are met.

(c) *Other service delivery models.* States have the option of proposing other service delivery models. Such models are defined by the State and approved by CMS.

§ 441.550 Service plan requirements for self-directed model with service budget.

The person-centered service plan under the self-directed model with service budget conveys authority to the individual to perform, at a minimum, the following tasks:

(a) Recruit and hire or select attendant care providers to provide self-directed Community First Choice services and supports, including specifying attendant care provider qualifications.

(b) Dismiss specific attendant care providers of Community First Choice services and supports.

(c) Supervise attendant care providers in the provision of Community First Choice services and supports.

(d) Manage attendant care providers in the provision of Community First

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Choice services and supports, which includes the following functions:

(1) Determining attendant care provider duties.

(2) Scheduling attendant care providers.

(3) Training attendant care providers in assigned tasks.

(4) Evaluating attendant care providers' performance.

(e) Determining the amount paid for a service, support, or item, in accordance with State and Federal compensation requirements.

(f) Reviewing and approving provider payment requests.

§ 441.555 Support system.

For each service delivery model available, States must provide, or arrange for the provision of, a support system that meets all of the following conditions:

(a) Appropriately assesses and counsels an individual before enrollment.

(b) Provides appropriate information, counseling, training, and assistance to ensure that an individual is able to manage the services and budgets if applicable.

(1) This information must be communicated to the individual in a manner and language understandable by the individual. To ensure that the information is communicated in an accessible manner, information should be communicated in plain language and needed auxiliary aids and services should be provided.

(2) The support activities must include at least the following:

(i) Person-centered planning and how it is applied.

(ii) Range and scope of individual choices and options.

(iii) Process for changing the person-centered service plan and, if applicable, service budget.

(iv) Grievance process.

(v) Information on the risks and responsibilities of self-direction.

(vi) The ability to freely choose from available home and community-based attendant providers, available service delivery models and if applicable, financial management entities.

(vii) Individual rights, including appeal rights.

(viii) Reassessment and review schedules.

(ix) Defining goals, needs, and preferences of Community First Choice services and supports.

(x) Identifying and accessing services, supports, and resources.

(xi) Development of risk management agreements.

(A) The State must specify in the State Plan amendment any tools or instruments used to mitigate identified risks.

(B) States utilizing criminal or background checks as part of their risk management agreement will bear the costs of such activities.

(xii) Development of a personalized backup plan.

(xiii) Recognizing and reporting critical events.

(xiv) Information about an advocate or advocacy systems available in the State and how an individual can access the advocate or advocacy systems.

(c) Establishes conflict of interest standards for the assessments of functional need and the person-centered service plan development process that apply to all individuals and entities, public or private. At a minimum, these standards must ensure that the individuals or entities conducting the assessment of functional need and person-centered service plan development process are not:

(1) Related by blood or marriage to the individual, or to any paid caregiver of the individual.

(2) Financially responsible for the individual.

(3) Empowered to make financial or health-related decisions on behalf of the individual.

(4) Individuals who would benefit financially from the provision of assessed needs and services.

(5) Providers of State plan HCBS for the individual, or those who have an interest in or are employed by a provider of State plan HCBS for the individual, except when the State demonstrates that the only willing and qualified entity/entities to perform assessments of functional need and develop person-centered service plans in a geographic area also provides HCBS, and the State devises conflict of interest protections including separation of

assessment/planning and HCBS provider functions within provider entities, which are described in the State plan, and individuals are provided with a clear and accessible alternative dispute resolution process.

(d) Ensures the responsibilities for assessment of functional need and person-centered service plan development are identified.

§ 441.560 Service budget requirements.

(a) For the self-directed model with a service budget, a service budget must be developed and approved by the State based on the assessment of functional need and person-centered service plan and must include all of the following requirements:

(1) The specific dollar amount an individual may use for Community First Choice services and supports.

(2) The procedures for informing an individual of the amount of the service budget before the person-centered service plan is finalized.

(3) The procedures for how an individual may adjust the budget including the following:

(i) The procedures for an individual to freely adjust amounts allocated to specific services and supports within the approved service budget.

(ii) The circumstances, if any, that may require prior approval by the State before a budget adjustment is made.

(4) The circumstances, if any, that may require a change in the person-centered service plan.

(5) The procedures that govern the determination of transition costs and other permissible services and supports as defined at § 441.520(b).

(6) The procedures for an individual to request a fair hearing under Subpart E of this title if an individual's request for a budget adjustment is denied or the amount of the budget is reduced.

(b) The budget methodology set forth by the State to determine an individual's service budget amount must:

(1) Be objective and evidence-based utilizing valid, reliable cost data.

(2) Be applied consistently to individuals.

(3) Be included in the State plan.

(4) Include a calculation of the expected cost of Community First Choice